

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-3, 6, 7, and 10-20 are pending in the application, with claims 1 and 7 being the independent claims. Claims 1, 6, 7, and 13-20 are sought to be amended. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections Under 35 U.S.C. § 102

Claims 1-3, 6, 7, and 10-20 were "rejected under 35 U.S.C. § 102(b) based upon a public use or sale of the invention." (Office Action at p. 4.) The Office Action at pages four and five further recites:

The public use or sale of the invention, a weather-based decision system for providing business recommendations based on a set of weather driven demand data sold by the Applicant (Planalytics, Strategic Weather Services) under one or more of the following product/service names: Planalytics, Planalytics Impact LR, Planalytics Impact SR, Arthur, Lewis and/or Weathernomics, is evidenced by at least the following:

I. Shutovich, Christina, When it rains, wipers pour profits: Retailers need to prepare for customers during a downpour (December 1999), herein after reference A;

II. Impact SR from Planalytics Gives Retailers New Weapon Against Weather (September 2000), herein after reference B;

III. Taming Weather's Unpredictable Impact (April 2002), herein after reference C;

IV. Strategic Weather Services Launches Planalytics (November 1999), herein after reference D;

V. Hawthorn, Chris, Weather As A Strategic Element in Demand Chain Planning (Fall 1998), herein after reference E; and

VI. Hawthorn, Chris, Sunny today, sales tomorrow (May 1999), herein after reference F.

Applicants respectfully traverse these rejections.

Amended independent claim 1 recites (emphasis added):

A weather-based decision system for providing business recommendations based on a set of weather driven demand data, comprising:

a confidence level filter configured to assign a first confidence level to data within the set of weather driven demand data based on a probability that a weather element forecast is accurate and a second confidence level to said data within the set of the weather driven demand data based on a strength of a correlation between a product or service being considered and one or more weather elements;

an opportunity matrix filter coupled to said confidence level filter and configured to assign an opportunity level to said data within the set of weather driven demand data based upon said first confidence level and said second confidence level;

a weather decision point generator coupled to said opportunity matrix filter and configured to ***identify a weather driven demand data point of said data within the set of the weather driven demand data as a weather decision point;***

a business rule recommendation engine coupled to said weather decision point generator and configured to provide a business recommendation; and

a business rules knowledge database coupled to said business rule recommendation engine and configured to contain business rules;

wherein the weather driven demand data indicates how a business activity is influenced by said one or more weather elements.

Claim 7 has been amended in a similar manner. Support for this amendment can be found throughout the specification and specifically at paragraph [00030], which recites, *inter alia*, "[w]eather decision points are weather demand data that are deemed to be relatively important[.]" and at paragraph [00043], which recites, *inter alia*, "weather decision points are those weather driven demand data that are deemed to be important[.]" In other words, ***weather decision points are a species of the weather demand data genus.***

None of references A through F, alone or in combination, discloses, teaches, or suggests identifying a weather driven demand data point of the data *within the set* of the weather driven demand data as a weather decision point. Therefore, amended independent claims 1 and 7 are not anticipated by references A through F. Claims 2, 3, 6, and 10-20 depend upon claims 1 or 7 and are not anticipated by references A through F because of this reason and because of their additional distinctive features. Accordingly, Applicants request that the rejections under 35 U.S.C. § 102(b) be reconsidered and withdrawn for claims 1-3, 6, 7, and 10-20.

The Office Action at page eight further recites:

An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows:

please provide the names of any products or services that have incorporated the claimed subject matter as well as information regarding their public use and/or sale (e.g. product road maps, sales presentations, investor disclosures, case studies, product manuals, product brochures, etc.), and provide a citation and a copy of each publication which any of the applicants authored or co-authored and which describe the disclosed subject matter and/or products or services.

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

Accordingly, Applicants file herewith a sworn Declaration Under 37 C.F.R. § 1.132 (hereinafter "the Declaration") signed by Mr. Frederic D. Fox, President of Planalytics, Inc. In the Declaration, Mr. Fox provides, to the best of his knowledge: (1) the name of the product that has incorporated the claimed subject matter, (2) information regarding the public use of this product, and (3) an attached copy of a press release related to this product.

Rejections Under 35 U.S.C. § 103

Claims 1-3, 6, 7, and 10-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0004780 to Smith *et al.* (hereinafter "Smith") in view of U.S. Patent No. 5,832,456 to Fox *et al.* (hereinafter "Fox") in further view of reference A. (See Office Action at p. 9.) Applicants respectfully traverse these rejections.

As noted above, amended independent claim 1 recites, *inter alia*, "a weather decision point generator coupled to said opportunity matrix filter and configured to identify a weather driven demand data point of said data within the set of the weather driven demand data as a weather decision point[.]" Claim 7 has been amended in a similar manner. Again, support for this amendment can be found throughout the specification and specifically at paragraph [00030], which recites, *inter alia*, "[w]eather decision points are weather demand data that are deemed to be relatively important[.]" and at paragraph [00043], which recites, *inter alia*, "weather decision points are those weather driven demand data that are deemed to be important[.]" In other words, ***weather decision points are a species of the weather demand data genus.***

None of Smith, Fox, or reference A, alone or in combination, discloses, teaches, or suggests identifying a weather driven demand data point of the data ***within the set*** of the weather driven demand data as a weather decision point. The Office Action concedes that Smith "does not expressly teach that weather driven data indicate *how* a business activity is influenced by one ore more weather elements as now claimed." (Office Action at pp. 13-14.) Yet, the Office Action, at pages 15-16, contends that:

It would have been obvious to one skilled in the art at the time of the invention that the weather-based decision system and method for providing business recommendations based on a weather driven data as taught by Smith *et al.* would have benefited from utilizing weather driven demand data that indicates *how (positively, negatively, etc.)* a business activity is influenced by one or more weather elements in view of the teachings of Fox *et al.*

However, even if the teaching of "weather driven demand data" in Smith is limited to exclude how a business activity is influenced by one or more weather elements (and thus the need to assign a second confidence level to data within a set of the weather driven demand data based on a strength of a correlation between a product or service being considered and the one or more weather elements), Smith still does not teach identifying a weather driven demand data point of the data *within the set* of the weather driven demand data as a weather decision point.

The operation of Smith is described using two examples. (*See* Smith at ¶ 0038.) The first example is airline flight scheduling. (*See* Smith at ¶¶ 0039-0054.) The table below presents a comparison, *arguendo*, of the teachings of the first example of Smith with the elements of claim 1 of the present patent application to illustrate a difference between them.

Claim 1	Example 1 of Smith
weather driven demand data	the influence of weather elements on runway operations
weather elements	wind speed and wind direction
weather element forecast	40 knots from the north
weather decision point	greater than 20 knots from the north
business recommendation	close runway

As may be observed in the table above, the "weather decision point" of Smith is not a species of the "weather driven demand data" genus of Smith. The teachings of Fox and reference A do not overcome this deficiency in the teaching of Smith. Because the combination of the teachings of Smith, Fox, and reference A do not teach all of the limitations of claims 1 and 7, the Office Action fails to establish a *prima facie* case of obviousness. (*See* M.P.E.P. § 2143.)

Therefore, amended independent claims 1 and 7 are patentable over Smith in view of Fox in further view of Reference A. Claims 2, 3, 6, and 10-20 depend upon claims 1 or 7 and are patentable over Smith in view of Fox in further view of reference A because of this reason and because of their additional distinctive features. Accordingly, Applicants request that the rejections under 35 U.S.C. § 103(a) be reconsidered and withdrawn for claims 1-3, 6, 7, and 10-20.


Conclusion

All of the stated grounds of rejection have been properly traversed. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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